# MUNICIPAL PROBLEMS IN MEDIÆVAL SWITZERLAND

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# MUNICIPAL PROBLEMS IN MEDIÆVAL SWITZERLAND

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# MUNICIPAL PROBLEMS IN MEDIÆVAL SWITZERLAND

By the end of the Middle Ages many European cities had become almost sovereign states. This was not their original condition but was the result of a process extending over long periods of time. Each municipality had its particular history and reached its goal by its own route, consequently none but the most general rules can be laid down for the growth of civic life in this period. No two places passed through exactly the same development. The conditions of their life history were as various as the feudal customs from which they sprang. The towns adapted their courses to their environment and from their original positions of feudal subserviency won for themselves various degrees of independence and self-government.

But, whether obtained by gift, or purchase, or by warfare, it is not the task of this paper to describe the earlier processes of municipal development, but rather to review the situation at the time when the goal of liberty had been reached. It is a matter of considerable interest to observe the conditions under which political and economic life were possible during a period when the destiny of the city was in the hands of its own governors. The task of government was not as complex as it is in a modern municipality, but the burden was by no means light, and the object of this study is to enumerate some of the problems which confronted the city authorities in certain typical towns.

In the first rank of importance stand the problems of political sovereignty. The city which owed no allegiance to a territorial overlord and had only a feeble attachment to the Empire, must lookout for itself in the contest of powers.

It must either prepare to defend itself or make alliances for mutual protection. Both of these measures were usually taken. The Rhine cities had their leagues for offense and defense which at times had the importance of great states. In Switzerland the chief cities were by this time either component parts of the Confederation or in alliance with it. Municipalities, therefore, entered into the borders of the higher state-craft and of diplomacy. The political horizon was larger than the circuit of the walls or the limits of the immediate district, and the problem of political existence itself was imposed upon the authorities. It does not follow from this that the governments necessarily rose to an unselfish standard of cosmopolitan statesmanship. We see at once that the authorities were at one moment engaged in the highest forms of state activity, and at the next in the most minute, if we may not call them the most trivial, details of community life. The first glance at the subject, therefore, shows that our modern conceptions of city administration under constitutional limitations must be laid aside for the time and that this earlier municipal activity must be studied in the light of its own day, and in the perspective of its own landscape.

The principal cities of German Switzerland serve as interesting subjects of study in this connection, because the superior authority, both of territorial lords and of the German Empire, were early neutralized and eventually removed. The cities continued to be in contact with these powers, but they met them as equals, not as subordinates. Even the remote and theoretical subserviency to the Holy Roman Empire was neglected and finally cast off, and the neighboring countries were either allies or enemies.

Nor was there in the Swiss Confederation itself any power which exerted a controlling authority over the cities included in it. The union called for a certain amount of common action and this was given in time of danger, but the Confederation was too feeble to enforce an ordinance for common government. The Swiss attained their political

independence by united effort but in spite of their constitution. There was no central power to enforce obedience, much less any federal law-making body to determine the form of municipal organization or to exert a control of its action.[1]

Zürich, Bern, and Basel, notably, became city states. The towns of those names were not only the chief places in their territories but each governed the territory itself, and the smaller communities within. The rural inhabitants were in an inferior position and the government residing within the walls spoke for the rest. Hence inwardly as well as outwardly the municipality was an independent organism and held a controlling position for which there is no modern parallel.

In diplomatic relations the Confederation held no monopoly. Each canton had the right to negotiate with foreign governments, and even to enter into separate treaties and capitulations. This was specially marked during the period when mercenary soldiers were most in demand. A few selections from the documents will show the importance and variety of the international correspondence of these small municipal states.

The cities of Basel and Freiburg, in 1365, entered into a defensive alliance agreeing to protect each other in case of war on either party.[2] In November of the same year these two take the city of Breisach into the agreement, and in December, the three together accept Neuenburg as a member of the company.[2a]

In 1405, the cities of Strassburg and Basel mutually agree to protect their respective liberties, rights, and customs. In a document of the same date they promise not to enter into

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[1] A brief statement of the federal situation is given in Chapter I of the author's study of "Switzerland at the Beginning of the Sixteenth Century," J. H. U. Studies XXII. A more comprehensive view in the introduction to his "Government in Switzerland," New York, 1900.

[2] Basel, Urkundenbuch IV, No. 295.

[2a] Basel, Urkundenbuch, IV, Nos. 296, 297.

any alliance with Austria during the continuation of their agreement.[3] This treaty was frequently renewed.

Not only alliances defensive and offensive were continually made and unmade, but the advantages of neutrality were also well understood. For instance take the following agreement on the part of one of the neighbors of Basel:

"I, Thüring von Ramstein, Freiherr zu Zwingen and Gilgenberg, make known to all men by this letter, that since the wise and discreet, the Burgomaster, council and people of Basel and their predecessors have always been true and good neighbors to me and all my predecessors, and if God so will shall ever remain so, therefore on account of mutual good friendship, I have entered into an agreement with the people of Basel and have promised . . . . . that whether the people of Basel during this time win in war or are conquered, in whatever way it falls out, I shall neither receive their enemies, nor aid, nor assist them neither secretly or openly in any wise whatsoever, but shall be quiet during the war, and toward both parties remain steadfast by my word and honor without deceit."[4]

Negotiations of larger scope are visible in the instructions of the council of Zürich to its delegates to the federal Diet, 29 June, 1413. . . . . "we are unanimously agreed that when our delegates and those of the Confederation come together next Tuesday at Lucerne to make answer to the Roman King, the delegates whom we shall send on that day shall have full power to act and answer on behalf of our city in whatever the confederates act and answer."

"But in case they are not unanimous in this answer, that whatever the delegates of Bern and Solothurn answer and enact, they shall on our behalf answer and act with them."[5]

Negotiations of like character were opened again in 1415, beginning with the diet and then going directly to the king.

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[3] Basel, Urkundenbuch V, Nos. 331, 332.

[4] Basel, Urkundenbuch V, No. 333, March 17, 1405. No. 347, July 20, 1406, is a neutrality treaty with the Margrave Rudolf von Hochberg.

[5] Züricher Stadtbücher, II, 12.

The instructions for the embassy to King Sigismund in regard to his demand for help against Duke Frederick of Austria were passed by the council of Zürich, on April 3, 1415. The conditions under which they would lend aid included guaranty of their rights and privileges and that peace should not be made without their knowledge.

By the 11th of April, 1415, the embassy had returned and the council passed the following resolution. . . . "whereas we had sent the upright and wise Heinrich Meisen, Altburgomaster, Felix Maness, and Conrad Täscher, members of our council to our lord the king as an embassy to demand of the king the aforesaid act and articles, in order that if the act prevailed then we should promise him our assistance. As these our ambassadors have performed wisely and well all that we had commanded and moved according to our desires and have brought back the king's letter with his majesty's seal unbroken, [resolved] that we have promised our lord the king fair assistance and that we will give him fair assistance in this war against the Duke of Austria."[6]

In a treaty between Count Hans von Tierstein, Austrian governor of Ensisheim, and the cities of Basel, Freiburg in Breisgau, Colmar, and Breisach, July 16, 1450, the parties agree to the values to be accepted for the coins current in their territories.[7]

The cities of Basel, Bern, and Solothurn in 1441, entered into a treaty for mutual defense and provide for the peaceful settlement of disputes between their governments or between their citizens. The parties are not territorial princes, but "We, Arnold von Ratberg, knight, burgomaster, the council and citizens in common of the city of Basel, and we, the schultheiss, council and citizens in common of the cities of Bern in Uechtland and Solothurn."[8]

In 1449, the city of Basel entered into an arbitration treaty with the Duke of Austria. Just as any two nations

[6] Züricher Stadtbücher, II, 22, 23.
[7] Basel, Urkundenbuch, VII, No. 276.
[8] Basel, Urkundenbuch, VII, No. 2.

of to-day might agree to submit their difficulties to a court of arbiters, so this territorial prince, and the mayor and council of a city become parties to what is practically an international agreement.[9]

In 1461, a treaty was concluded between various princes and cities, for resisting the encroachments of the Westphalian law courts. The powers included were Frederic, Pfalzgraf of the Rhine, duke of Bavaria, imperial arch-cupbearer and elector, Ruprecht, bishop of Strassburg, and landgrave of Alsace, Albrecht, archduke of Austria, etc., Charles, margrave of Baden, Conrad, lord of Busnang and Montal, Bartholomew, abbot of Murbach, Johann von Luppfen, landgrave of Stüllinger, etc., Jacob, count of Lichtenberg, and Louis his brother, William, lord of Rappoldstein and Hohenack, and finally, the Burgomaster and councils of Strassburg and Basel, Hagenau, Colmar, Schlettstadt, Wissenburg, Mülhausen, Kaiserberg, Ober-Ehenheim, Münster in St. Gregorienthal, Rossheim, Duringheim, Offenburg, Gengenbach, Zelle, Freiburg, Breisach, Neuenburg, and Endingen.[10]

In 1475, a treaty was entered into between Louis XI, of France, and the Confederates in which military assistance could be demanded of the Swiss. The stipulations were not as clear as they should have been, so the city of Bern passed an explanatory resolution, in which it took upon itself the responsibility for the proper fulfillment of the treaty.

"And if at any time the aforesaid Confederates upon the demand of the King, do not send the aforesaid number of 6000 men to his aid, we agree and promise to make this number complete and make ourselves responsible to the King therefor."[10a]

From these few instances alone it is apparent that the cities in question enjoyed the privileges of nations in certain phases of their government. But their sovereign rights and

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[9] Basel, Urkundenbuch, VII, No. 194.
[10] Basel, Urkundenbuch, VIII, No. 177.
[10a] Eidgenössische Abschiede II, 921. Oechsli, Quellenbuch I, 163.

duties had also their sovereign perils. If they might enter wars in behalf of the powers about them, they must also expect attack. This expectation was amply fulfilled during the period in review, and notwithstanding alliances with kings and adjacent commonwealths, the cities were obliged in the last resort to depend upon their own defenses. In fact, from the foundation of the towns to the beginning of their modern history, the first requisite of independent existence was adequate defense of the immediate circuit of habitation. At present, under large general governments, only a few towns at important strategic points are fortified. During the period under consideration every small center of government must prepare for the worst.

The nature of that defense was a most important factor in mediæval municipal life. As everybody knows, the warfare of that day called for walls. Where natural cliffs were lacking, masonry was called in to provide barriers against hostile men and hostile artillery at close range. Hand to hand conflicts were anticipated in which the possession of a stone wall and a ditch was in question. As time went on the machinery of destruction grew more powerful and the masonry grew heavier. The municipal problem increased at the same pace.

A city wall, in the first place, called for an original outlay of a serious character, whatever the size of the town might be. In a small place the burden would fall on fewer and in large towns the circumference of the barricade would be greater. In earlier days the fortification of towns was sometimes assisted by the territorial lords. A market tax or the proceeds of other contributions would be devoted to the walls. Upon a foundation thus laid a town might maintain its fortifications a century or more by simply keeping them in repair, but in the later mediæval period it became necessary to enlarge and the enclosure of a greater space laid the burden of a new wall upon the citizens themselves. In all cases there was a continual outlay for maintenance, for the preservation of moats, and the prevention of decay.

Walls, therefore, became one of the fixed charges of a city financial budget, an element which no longer figures in the problems of municipalities. Specific instances may be cited to give a glimpse of the ways and means of maintenance.

The code of Zürich of 1304 devotes the fines for certain offenses to the use of the fortifications.[11] The Emperor Sigmund granted to the city of Basel in 1431 the right to lay taxes and excises on its citizens for the support of the "walls, moats, bridges, and other building operations."[12] This corresponds to the grants for "murage and pavage" made by English kings about this time, but before the close of the fifteenth century the Swiss towns were independent of such authorization to employ their own taxes.

The council must take oath never to give away the property of the city or to permit the walls to be injured. They must not permit strong houses to be built outside the walls lest they be used to command the gates.[13]

In the records of the city council of Zürich under date of 1423, is a settlement of a disputed title to a piece of property, and with it an order that the city wall which abutted on this property should be kept in repair by the owner without expense to the city.[14] This obligation was also laid upon the nuns of the cloister of Oetenbach when they moved to a situation inside the gates. Under what principle such a tax could be imposed is not explained, nor can it be readily determined how much or little of the wall was thus maintained.

The preservation of the moats and ditches demanded continual watchfulness in order to prevent them from being used as dumping places for all sorts of refuse. Penalties were imposed for disregard of this important matter.

There were also people who wished to have private doors in the wall for more convenient access to their properties

[11] Richtebrief der Burger von Zürich, I, 35, IV, 10.
[12] Urkundenbuch, Basel, Bd. VI, 285.
[13] Richtebrief, II, 23, 24; III, 43, 44; Rechtsquellen, Bern, I, 75.
[14] Züricher Stadtbücher, II, 337.

outside. In Zürich this privilege was granted to one or two persons on condition that they close up the door with masonry when notified by the city authorities.[25]

One can safely imagine the variety of business imposed on a city council in keeping up this portion of the public works, however solidly the walls may have been built originally. Yet, on the other hand, some of the most significant social results are due to the fact that the fortifications were built so permanently. It was so great a task to rebuild that the walls would remain for one, two, or three generations on the original outline. Cities were kept in the same framework for fifty to one hundred and fifty years. The historical maps of all these towns show successive enlargements, but these are spread over long spaces of time.

Basel, for example, occupied in the thirteenth century a space which now seems but a small semi-circle in the center of the present city with a smaller piece on the other side of the Rhine. The greater part of the line of fortification in that period dated from the eleventh century, and it was 1626 before a new circuit was enclosed. This latter line of wall remained until 1860, when it gave place to boulevards. Bern was founded on a narrow peninsula in the Aare river and was destined, like New York, to grow in one direction. In 1191 the settlement received both a charter and a wall of defense. The size of the first enclosure does not seem large when examined now, but it was probably a liberal space for the inhabitants at the time. A new wall was built farther out about 1250. This sufficed for almost a century, for the last wall was erected in 1345. Outlying fortifications were added in the seventeenth century, but these did not serve as city limitations in the way that the earlier walls had done. The lines of successive expansion can be easily traced in the present streets of Bern.

Strassburg starts with a diminutive Roman city which expands first in 720. The next enlargement occurred be-

[25] Züricher Stadtbücher, I, 8, 1315.

tween 1202 and 1220. A third expansion culminated about the middle of the fourteenth century and a fourth was completed in 1390. It took a half century to enclose the next addition. The citadel which was added in 1684 had a military rather than a social significance, hence the framework of civic life in Strassburg remained fixed for long continuous periods throughout the middle age and early modern times.

The city walls and other means of defense deserve greater attention than they have received as a factor in the social conditions and problems of the time. There was not only a financial question to solve, but there was also a sanitary problem to encounter. The latter may not have been appreciated by the contemporary authorities, and it may be necessary to call it rather a sanitary effect. The very choice of a town site was in most cases determined by its defensibility. If it was situated on high ground the chances for natural drainage were favorable, but if in a low spot with a sluggish moat about it, there was a distinct hindrance to health for long periods of time.

We are amused at the narrow streets which may yet be found in some of these old towns. But it is not surprising when you consider the small area in which the community was confined. Undoubtedly the middle ages were not sufficiently aware of the value of air space either inside or outside of their houses, but the presence of the walls gave a constant inducement to economy of ground. The contemporary views and plans of towns show very little room for expansion. The pressure of population gradually pushed the houses outside the gates but there was always some wall to consider. At first the extra-mural inhabitants must be able to get inside easily in time of attack. Later the boundaries of a new wall fixed once more the limits of expansion. Consequently from the beginning to the end of the period there was every inducement to confine both streets and buildings to narrow space. The builder could expect a change of boundary scarcely within a lifetime.

The problems of police regulation, sanitation, and crime

were, therefore, largely dependent on the primary factor of defense, a matter growing out of the spirit of the times and for which the particular locality was not responsible. While sitting in judgment on the activities of city authorities of that period it would be well to consider the limitations, set for them, both in space and scope of action. There will be plenty left to condemn according to modern standards.

Turning to the larger questions confronting council and magistrates within the boundaries of their town or territory, one finds at an early date that the whole welfare and activity of the citizen is in their control. The laws of property, inheritance, and everything relating to commerce and exchange; criminal law including the power of life and death; all the phases of private as well as public law are not only administered, but the principles are established by the city authorities. Undoubtedly the precepts of criminal procedure grew up by degrees out of common custom and feudal practice of Germanic peoples, but the codes followed in the later middle age were not imposed by some superior state above the city but in the case of the larger cities were formulated by each city for itself. Likewise the laws of property and inheritance in these various towns have a resemblance to one another which shows their common derivation, but even in these there are marks of individuality which would suggest, if we did not otherwise know, that each town was autonomous in this respect.

It is not the purpose of this paper to describe the character of the criminal and commercial law, but it is of great significance to know that the same magistrates that administered the minute regulations of streets, markets, and petty misdemeanors, had also the power of banishment, mutilation or death. These latter functions were not in the hands of any superior general authority which would thus permit the town government to devote its whole attention to local affairs, but the whole thing, from the treaty with France to the price of wine, from homicide to fire-buckets, is undertaken by the local officials.

One might suppose that such a condition of things would bring forth a succession of important men in places like Basel, Strassburg, Zürich, or any of the South German cities which enjoyed this sovereign liberty of action. As a matter of fact the list of great statesman is not large, Occasionally a man of large caliber comes to the front in European politics, but for the most part the phenomena gave birth to general vigorous citizenship. The towns had reached their freedom in the first place through their own efforts or shrewdness, hence they were in the mood to maintain and improve their advantages with energy. In Switzerland they were able to throw off all semblance of imperial overlordship and to perpetuate their independence through periods of greater danger. The Rhine cities did not maintain themselves so long but for a noteworthy period set an example of manly self-sufficiency and preserved the seeds of modern democracy.

After the fundamental facts of life and property, the municipal authorities were occupied with the daily concerns of commerce and social comfort. There was no lack of vigor in the administration of these, but the energy was expended in a somewhat different way from that now expected of city fathers. For example, each city determined for itself and its dependent territory all matters concerning weights, measures, and coinage. A supervisor of weights and measures is a familiar official, but we do not ordinarily include a master of the mint among municipal dignitaries. The councils were obliged to consider questions of the fineness of metal and to establish the forms and subdivisions of coinage. From time to time they fixed the rate of exchange with the neighboring or more distant foreign monies. The basis of currency was inherited from Rome and the earlier middle age, but changes and deterioration were constantly at work. The right to coin money was one of the sovereign powers which every place was jealous to maintain. Consequently the interchange of goods must have been seriously hampered by the multiplication of coins of different value.

This trouble continued almost down to this century in South Germany and Switzerland and if the coinage of that period is the distraction, if not the despair, of the collector, it could have been only a little less to the contemporary. The records show that numerous attempts were made to establish a common standard among neighboring towns, or to agree upon a fixed rate of exchange. Matters which now are regulated by parliaments, or the combined wisdom of great nations, were at that period in charge of town councils. Fortunately the habits of trade made certain gold coins, like the Florentine ducat, and the coins of the same weight called the "Rheinische Gulden" an international legal tender and thus the difficulties were somewhat lessened by being confined to the silver coinage.

As an example, the monetary ordinance of 1351 in Zürich provided for a change of currency. It was forbidden to buy or sell with the old pennies, yet debts were to be paid in the coin in which they were contracted. No one should offer bullion silver for sale without the knowledge of the master of the mint, who has the first right to purchase. The goldsmiths might buy broken silver for use without special permission, but should turn over to the mint what they do not need for manufacturing. No one shall conduct an exchange business without the consent of the council and the mint-master, except in certain named coins not needed by the mint. No banker or Jew should lend any money except in the new coinage struck in Zürich or in gold guldens. New coins must not be melted down. Nor must any one within three leagues of Zürich buy silver without the consent of the mint-master, and if the latter wants the silver must sell it to him at the original purchase price. Likewise no citizen should without permission export silver from Zürich. Buying and selling must take place with the new coins, unless one desired to use gold guldens, but this must be at the rate of exchange given by the mint.

The coinage agreements were not necessarily in favor of stable currency. In 1421, an understanding was recorded

that Zürich and Lucerne agree to strike coins of the same value, neither more or less, than those of Bern and Zofingen. Whenever they pleased they might test the coins of the latter places and if found to be lighter than their own they would reduce the latter to the same basis. This curious policy was followed almost to the end of the eighteenth century with the consequence that the Zürich pound fell from a silver value of 20 francs in the thirteenth century to 1.16 francs in 1780.[38]

The records contain many ordinances and agreements about money, but the foregoing citations will indicate the importance as well as the minuteness of the power thus left in the hands of many towns.

As to forms of government the Swiss cities may be divided into two general classes. In one the trade guilds had an active part in the administration, in the other they had not. This does not mean to say that in one case the guilds were regarded as the most important element, but that their right to a share in the government had been recognized, while in the other class of cities the aristocracy took the affairs of State wholly in their own hands. The two prominent examples of the respective classes are Zürich and Bern. In Zürich a revolution which took place under Rudolf Brun in 1336 was clearly an echo of a movement in Strassburg about the same time. There was in both cases a demand for more popular representation, and the result was the admission of the masters of the guilds, *ex officio,* as members of the city council. This principle remained in the government of Zürich for several centuries thereafter, and one may regard it as an unalterable fixture during the period here under consideration.

But notwithstanding the recognition of the working classes there continued to be a preeminent position reserved for the old families. Titles of nobility were carried by some of the associated burgers, and others on account of

[38] Züricher Stadtbücher, II, 153 and note.

their wealth, influence, or distinguished services received orders of knighthood from foreign potentates. The possibility of aristocratic government was by no means abolished by the constitution of 1336, for Rudolf Brun himself demanded and obtained the position of sole burgomaster for life, and at various other times dictatorships were assumed for longer or shorter periods. These were, however, abnormal situations. Class distinctions were keenly felt, as may be seen in the sumptuary laws of this and the following centuries, but it was a most important fact that the advancement of the industrial classes was made possible. Although contemporaries might not have formulated the matter in the same way, the inhabitants were in fact divided into two classes, the citizens of wealth and the citizens of toil. The first class included the aristocratic families, the larger merchants, and in general those who were financially at ease. The amount of wealth required to give a man distinction was much less extensive than at present. The tax lists show that the richest men had small fortunes compared to those now held in the same city. This portion of the population was naturally smaller in number and was gathered into one guild, called the Constafel. This term was derived from *constabularius*, the designation of a high feudal office, but it no longer implied any duties of that character. The word had come to mean simply a title of distinction, just as in the earlier middle ages the title senator was given to any man capable of holding office. The guild of the Constafel was therefore the assembling place of the aristocracy.

The industrial classes were grouped into thirteen trade guilds, whose organization differs in no essential from the forms found in other countries at this period. In their influence upon the administration of the city government aristocracy and labor were about equally represented. It would be inexact to say " capital and labor " in this description, for every master of a trade was a capitalist and employer in a small way. There was as yet no wage earning class entirely dependent on capitalists for opportunity to

labor. The distinction in classes was made partly in obedience to the natural reverence for well born families, for the capacity for leadership, as well as for wealth itself and its stake in the commonwealth.

In outline the city government consisted of a smaller and a larger council, with a burgomaster at the head. The Kleiner Rath, or smaller council consisted of twenty-six members, of whom thirteen were from the Constafel, and the other thirteen were the masters of the trade guilds. This council met every day if necessary, and was the real executive force of the city.

The great council, known as the Grosser Rath, was composed as follows:

| | |
|---|---|
| Members of the smaller council | 26 |
| Members of the outgoing smaller council | 26 |
| From the trade guilds, 6 from each | 78 |
| From the Constafel | 78 |
| Appointed at large by the burgomaster | 3 |
| The burgomaster himself, as presiding officer | 1 |
| Total membership | 212 |

After 1370 this larger body was commonly spoken of as the council of the 200, or, for short, "Die zweihundert." Its meetings occurred at irregular intervals for the more fundamental business of the city state.

Elections to the councils took place every six months, at Christmas and midsummer. The burgomaster also was chosen every half year, but it came to be the practice to consider the outgoing mayor as part of the government, and thus two chairmen were constantly available. At the dates mentioned the guilds of Zürich met in their respective assemblies and chose their masters and their representatives for the two councils. These newly elected bodies thereupon met together and chose a burgomaster.

The same general form of government was found also in Basel and Schaffhausen. The number of members in the councils was larger in Basel and smaller in Schaffhausen than in Zürich, but the principle was the same. In Basel the representation of the guilds was introduced about 1350.

These constitutions present an interesting subject of study, for it is still a question how much popular government was possible under their provisions. Analysis of the membership of the guilds in Zürich, for example, brings out the fact that about every man who was not in wardship or dependent service was connected with some guild. In Basel, and perhaps other places, even the widows of deceased members could carry on the business and retain membership, but keeping in mind only that part of the inhabitants who would be called upon for all kinds of civic duties, one finds them all attached to one or another of these organizations.

The connection of the citizen with politics began with the election of his guild master, for the latter was an *ex officio* member of the lesser council. His next opportunity came with the election by the guild of its six representatives in the great council. The common man, therefore, made himself felt through his business organization rather than through a ward or precinct of the city. Such political subdivisions did not exist. In fact the guild system for the exercise of political rights continued down into the nineteenth century, when men of any profession had to be enrolled among butchers or bakers, or some other trade in order to vote. In the fourteenth and fifteenth century this was a more natural procedure, yet the amount of influence upon public affairs depended upon the quality of his guild. On account of wealth and condition the guild of the Constafel was allotted as many members of the lesser council as all the other guilds put together. No doubt this group had more at stake in the commonwealth than any other class. The trades guilds varied in size, but representation in the government was the same for all, one each in the daily council and seven each in the Two Hundred.

In this great council also the number from the Constafel was equal to all the rest of the elected members put together. The burgomaster and the three delegates at large would be the only uncertain quantity, in any division of

party interest. Referring to the previous table it will be noted that the Constafel are represented in the great council by one-half of the incoming and outgoing lesser council and by seventy-eight others elected for the purpose. The thirteen trade guilds have six each, and one-half of the lesser council, making one hundred and four for each class. Representation therefore was not on a basis of general suffrage, but was held in check by the double privilege of property.

A further analysis of the government permits one to make a fair estimate of the democracy present. The population of Zürich in 1357 has been estimated from the tax books to have been 12,375. In 1374 it was about 11,680, and in 1410, 10,570. During four centuries the number of dwelling houses remains almost stationary between 1000 and 1100. The population at the close of the fifteenth century had declined to something like 7000, but if we take an average number of 10,000 residents as a maximum with which to calculate the ratio of representation, the result is interesting.[17] According to the usual proportions the adult men would make about one-fifth of the community, or about 2000 persons. At that figure a legislature like the Two Hundred would provide 1 delegate to every 10 voters, or 1 to 50 inhabitants. Even if the estimate of male inhabitants should be made twice as large as modern figures warrant, we should have a ratio of one delegate to 20 voters, a representation which comes very near to pure democracy.

If we eliminate from this the special representation of wealth, the actual proportion of councillors voted for by the great body of the citizens would be smaller. There is no way to show exactly what this ratio was, because the number of members of the Constafel guild is not closely ascertainable. We simply know that it was a small part of the civic body, and that the plan was in effect a combined representation of interests and population. Practically every-

[17] Das Alte Zürich, II, 399.

body who was a working force in the city had a voice, although not an equal voice, in public business. The superior representation of wealth marks the boundary of the contest of social forces for the time being.

In 1416 an ordinance was passed to the effect that all nominations in the guilds for members of the great council should first be submitted to the college of guild masters. This was practically a control of the "bosses" which would prevent the choice of men who might favor the aristocracy, or stand in the way of the industrial interests of the city. This inspection could also control the external policy of that portion of the council. We must note, however, that this control is not usurped by the political managers, but openly recognized and provided for by ordinances.[18]

Aristocratic government in Swiss cities was represented in the constitutions of Bern, Lucerne, Freiburg, and Solothurn. Taking Bern as the largest and most influential, we find at the outset that one of the cardinal principles of that city was that guilds were not permitted to have any voice whatever in the government. What is more curious is the fact that the rulers took measures even to the extent of forming military alliances to prevent the guilds from ever getting any hold upon administration. Most curious of all is the agreement which Zürich was willing to enter into. That republican town promised to lend armed assistance to the government of Bern if any one should attempt to overthrow the existing constitution and introduce the régime of guilds. In return for this the Bernese were to come to the help of Zürich if the political power of the guilds was threatened. In Bern these organizations were confined to their industrial functions.

In the aristocratic cities above mentioned there were in the fourteenth century two councils, as in Zürich, but the difference lay in the method of appointment. Bern had a small council of 26 and a great council of 200. Lucerne

[18] Züricher Stadtbücher, I, 403.

had a small council of 36 and a great council of 100, while in Freiburg the proportion was 24 to 200. Formerly there had been only a single small council of an aristocratic character with a Schultheiss at the head. The constitution of Bern now under consideration was itself a concession to a brief labor movement which began about 1295 and got no further. To appease the demands of the guilds a new board was created, called the Sixteen, or the Secret Council, and consisting of four men from each quarter of the city. This board, with the assistance of four of the chief officers of the government, selected a council of two hundred, to which all classes were eligible. If the members were properly chosen this council could be a fairly popular body, but it is easy to see how in the course of time the great council became simply an instrument for confirming aristocratic power. With lawmakers of its own appointing, the upper classes made the right of citizenship more and more difficult to obtain, so that in the sixteenth and seventeenth centuries the government of Bern was almost a family affair.

If the study of political forms had been the object of this paper it would have been more appropriate to begin with the description of governments. It is desirable for once to point out the remarkable autonomy of these city states, regardless of the form of administration, and to approach the problems of municipal management from the standpoint of the authorities, no matter by what mandate they came into power.

Taking up once more the administrative problems of these governments we observe that the subject of water supply does not come forward for serious consideration at a very early period. The chief cities of Switzerland were situated on important rivers or lakes, and we may suppose that in their most primitive times these sources were employed. This might suffice for a very small population, but in the fourteenth and fifteenth centuries, it was clearly not convenient to bring water from the riverside for household use. The earliest mentioned sources of drinking water in Zürich

were wells on private property. We have no means of knowing how abundant or copious these were at any early period, but in the course of time it became necessary to maintain some wells at public expense. Early in the fourteenth century wells are found on public property and after the sixteenth century they are found in the accounts of the office of public works. At various dates up to 1680 nineteen wells are thus mentioned as maintained at public expense.[19] Water was drawn from these either by ropes alone, or with the assistance of sweeps or windlasses of various kinds.[20] The drawings found in the contemporary chronicles depict the well-known devices used in early times in America, and which are still to be found in remote regions.

The earliest example of a running fountain in Zürich is mentioned in 1307. Water for this was brought in pipes from the hills, and this method appears to have been an uncommon affair for that town. Later in the fourteenth century an attempt was made to distribute some of the river water. Large water wheels were erected on the bridges for which the current furnished the motive power and the water was dipped up in buckets attached to the rims of each wheel. This was caught in a trough and flowed thence into pipes which fed seven public fountains and nineteen private hydrants. Drawings of these wheels are to be seen in Edlibach's chronicle about 1500 and are still there in pictures of the eighteenth century.[21] In the seventeenth century mechanical skill rose to the point of erecting a pump on one bridge to furnish water for the old Lindenhof, an open space on a knoll considerably elevated from the level of the river.

But the rivers were not the most desirable supply, for notwithstanding their mountain source and general clear

[19] Das Alte Zürich, 410-414.
[20] Zemp, Bilderchroniken, 351.
[21] Zemp, Bilderchroniken, 272. Von Liebenau, Das Gasthof und Wirtshauswesen der Schweiz in älterer Zeit, 56.

appearance, they were more suitable for commerce and drainage. Eventually springs in the neighboring hills were brought into service. The earliest notice of water conducted from a considerable distance dates from 1425. About this period various new fountains were established in the streets and others were added from time to time. At the end of the eighteenth century there were thirty running fountains for public use, but a system of water works in the modern sense was first undertaken in 1868. The water problem of the later middle ages, therefore, was largely left to the self-help of the citizens. Private wells were supplemented by public wells and fountains to which the burgers brought their buckets and carried away water for use in their houses. That it was not commonly carried into the house in pipes is clearly evident from the careful precautions taken when permission was given to make connections with the mains which fed the fountains.

In 1421, the lesser council passed the following order:

"... Burgomaster and council permit and allow the provost of the cathedral in his court at the official residence, and Heinrich Suter in his house 'at the Fûlli,' each one of them to have a fountain with a faucet, one from the fountain in the 'Kilchgasse' and the other from the fountain in the 'Hofstatt.'" But both are subject to revocation.[22]

In 1425, there was another order of the same character:

"We, Burgomaster and council of the city of Zürich, have on this day, the date of this writing, granted and allowed our dear fellow Councillor, Rudolf Stüssi, upon his earnest request, to conduct a fountain out of our city fountain and out of the pipes situated in front of the garden of our worthy burgomaster Meisse at the Linden outside the gate, across the street into his own garden and to place there a fountain, but in such a way that he proceed modestly in the matter and not take so much water that it bring noticeable damage to the city fountain; and also that he make the fountain in

[22] Züricher Stadtbücher, II, 330.

his garden with a faucet, and lock it with a key, so that not everybody can come thither, and that the city fountain suffer less damage. But if it should happen that this fountain should work noticeable damage to the city fountain, whether it be a short time or a long time hence, or if we or our successors decline to permit the said Rudolf Stüssi or his heirs to continue this fountain, for any reason whatever, he or his heirs shall be obedient to us and our successors in all respects and shall discontinue the fountain and conduct the water back into the city pipes from whence he now takes it, and shall see that it is well closed and that the city fountain suffers no further damage, and they shall do this at their own cost without expense to us or to our city."[23]

There is no mention of rental or payment for this privilege. The beneficiaries are prominent citizens who can afford to lay the additional pipes at their own expense. Ordinary inhabitants would go or send to the nearest fountain for their drinking and washing fluid. The cost of the public water works during these centuries would not seem to be a great burden on the community. The efficiency is harder matter to determine. In a compact community with mediæval conceptions of convenience the supply doubtless seemed ample for household purposes. The necessity of bringing water so far by hand undoubtedly made people use less of it than if it could have been drawn from a spigot in the house. The problem of sanitation is closely affected by the water question. In both cases there were the natural difficulties and the natural inclinations to be counted in estimating the cleanliness and health of the place. Personal cleanliness would seem to have been cultivated in the summer time at least, if one may judge from the accounts of swimming and water sports. Public bath houses appear also in the municipal documents.[24]

Basel had the misfortune to be shaken down by an earthquake in 1356 and the ruin was completed by fire. It gave

[23] Ibid., II, 372.
[24] Urkundenbuch, Basel, Zürich, etc. See indexes of same.

the town an opportunity, however, to begin anew, and in the next century it presented a very prosperous appearance. An interesting description of the city is given by Aeneas Silvius Piccolomini, afterward Pope Pius II, who spent some time there as secretary to certain cardinals in attendance at the Council of Basel. In a letter written in 1436, he records his favorable impression of the streets, buildings, churches, and general aspects of the place and makes note of the fine market places in which fountains gushed forth clear sweet water. "In general, there are numerous fountains in all the streets, even the Tuscan Viterbo is not watered with so many pipes. Whoever wishes to count the fountains in Basel must count the houses." The houses of the citizens are astonishingly well arranged inside and so decorated and attractive that they are scarcely equalled by the Florentine. They all gleam with cleanliness and are mostly frescoed; every house has its garden, fountain, and court." It is evident, therefore, with all due allowance for the exaggerations of the enthusiastic visitor, that Basel had kept pace, if not surpassed its near neighbor, Zürich in the conveniences of water.

Periodic destruction by fire seems to be in the history of many of these towns, great or small. But thatched roofs and wooden structure give way in the course of time to stone and tiles. Protection from fire proceeded more in the line of prevention than in extinction. Building laws and curfew bells are repeatedly reenacted and improved. It was against the law in these times to go into a place where there was hay or other inflammable material with an open light. It must be enclosed in a lantern. Provision for fire extinction was made also. An order of council of 1416 gives a list of the houses where fire buckets are to be found. Thirty-six places are named and each was to have from that date on twenty-five buckets for use in case of fire.[28]

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[27] Oechsli, Quellenbuch, II, 372.
[28] Züricher Stadtbücher, II, 414.

The stationary character of this protection may be seen in the laws of Lucerne just a century previous. The code of 1310-15 ordains that "every citizen shall have a fire-bucket in his house and at night shall keep his great barrel full of water." At that time also it was forbidden to any citizen or servant to thresh or fan out his grain by candle light, an ordinance which throws as much light on the primitive occupations of the town as it does upon the system of fire extinction.[27]

Sanitation, like many other things in a mediæval town was left largely to the self-help of the citizens, yet the authorities attempted to enforce a few principles. The streets must have received a certain amount of attention, for the ordinances are constantly renewed in the fourteenth century to the effect that if any one throws manure in designated places he must remove it within eight days.[28] The laws of Lucerne required every householder to sweep and make things neat before his own door once a week. To throw dirty water in the street by night or day was subject to a fine. "And whatever smith bleeds a horse, he shall catch the blood in a tub or bucket so that it does run into the street, otherwise he will pay 1 shilling as often as he does it."[29] But the people would keep swine inside the town. A statute of Bern in 1313, however, went so far as to say that if any one after that date kept a pig-sty in front of his door he should be fined a pound.[30] One might infer that the swine for a long time had the privilege of the streets, for in 1403, on the sixth day of November, the burgomaster and councils of Zürich, gave notice that after one year from the following Christmas "no one shall have any swine in the city except on his premises in stables, and shall not let them go out on the street. However, every one may take his swine to the water to drink in the day time,

[27] Printed in Kopp, Geschichtsblätter aus der Schweiz; Oechsli, Urkundenbuch, II, 257, etc.
[28] Züricher Stadtbücher, I, 46, 343, etc.
[29] Oechsli, Quellenbuch, II, 260.
[30] Rechtsquellen, Bern, I, 60.

provided his servant is there. If any desires to clean out his stable he may let his swine out, provided his servant is at hand, and after the watering and the cleaning up he shall drive them in again properly." The fine was five shillings for every hog found on the street, "and this fine is to be collected from the owner," not the swine.[31] The long notice in advance and the care with which the needs of the animals are foreseen in the ordinance, all leave the impression that the authorities were reluctant to attack with haste or violence an established institution. A century later (1505-1512), geese and ducks were deprived of their previous freedom of the streets, and hens must be kept within bounds.[32]

The streets for a long period must have been difficult to keep in a sanitary condition. The use of pavement arrived late. Zürich began to lay stone pavement about 1403, and evidently proceeded slowly.[33] The condition of things at night can be inferred from the police regulations, whereby any one who appeared on the street after the curfew bell without a light was liable to arrest as a suspicious character.[34]

As it is the object of this paper to state in outline a few of the problems of municipal life from the standpoint of the magistrates, rather than to give a history of city administration, it must suffice to pass over with brief mention the control of trade and industry. In this the authorities were assisted by the guilds with their special rules for each occupation, but they were often obliged to settle matters by the fixing of wages. The principle of governmental interference speaks out of the records with increasing distinctness through these centuries. For example, the council of Zürich in 1335, fixes the maximum wage for carpenters. In 1424, it is still doing the like for agricultural day laborers, and in the seventeenth century in Basel, the municipality

[31] Züricher Stadtbücher, I, 344.
[32] Das Alte Zürich, II, 410.
[33] Ibid.
[34] Ibid., I, 90.

publishes a book of eighty pages giving the price of every commodity and every service to be had in town, from a suit of clothes to a hair-cut.[35] The market ordinances and the labor regulations of the fourteenth and fifteenth centuries may well be studied simply to see how many things the authorities had to think of.

The same body of magistrates that made treaties and capitulations with kings and emperors, found it necessary at times to regulate the clothing and expenditures of private citizens. They were often busy with the cost of wedding feasts, and the price of a christening gift. The care of tourists, for which Switzerland now appears to exist, was already a subject of legislation. In the year 1400, if not before, there seems to have been a practice among boatmen to chase after travelers to induce them to use their conveyances, much to the discomfort of the pilgrims. Boatmen are commanded, therefore, to stand in their boats and call out if they like, but not to hinder the passengers. A year or two later an ordinance for inn keepers forbids them to run after guests or send their servants to induce them to come to their houses, "But one may stand in his door and from there invite a guest into his house with modesty."[36]

The same body that made this ordinance might soon be ordering the transportation of an army.

The closing centuries of the mediæval period was the period which witnessed the rapid expansion of towns into states. By lending money, by direct purchase, by conquest, or by inheritance, municipalities came into the possession of feudal rights which hitherto belonged to individuals. The town governments simply took the place of the former governors, and exercised their rights in exactly the same way. By an accumulation of these properties the territory of Zürich or Bern was built up to its present dimensions.

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[35] Züricher Stadtbücher, I, 72; II, 362. Der Stadt Basel, Tax-Ordnung, 1646.

[36] Züricher Stadtbücher, I, 335, 336.

The government extended over the whole of this area, but the governors were the inhabitants of the walled town. The peasants and villagers outside were not citizens but subjects of the city.

The evils of this were great, for the country was regularly treated with unfairness. The city desired no competition in trade or industry on the part of country artisans. Country made goods were forbidden the city or grievously burdened with taxation. The trade guilds were afraid of their own subjects and got behind the protection of their walls. This policy excited bad feeling between the two classes of inhabitants and occasional outbreaks of revolt. In fact, it took centuries of government to teach the necessity of equal rights for all citizens.

[The argument of this paper was presented in brief outline before the American Historical Association, and was printed in the Report for 1902, Vol. I, pp. 211-221.]

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